

Board Administration and Regulatory Coordination Unit

Division 3. Air Resources Board

Chapter 1. Air Resources Board

Subchapter 1.25. Administrative Procedures–Hearings

Article 2. Administrative Hearing Procedures for Petitions for Review of Executive Officer Decisions

Subarticle 9. Reconsideration

§ 60055.40. Requirements in Filing Request for Reconsideration; Comments Opposing Request.

(a) A request for reconsideration of a state board's order or decision regarding a petition for review of an executive officer decision shall be signed by the party or its representative and verified under oath. The request shall be based upon one or more of the following grounds:

- (1) The hearing officer or the state board acted without or in excess of its powers;
- (2) The order or decision was procured by fraud;
- (3) The order or decision is not supported by the evidence or the findings of fact;
- (4) The requesting party has discovered new material evidence that could not, with reasonable diligence, have been discovered and produced at the hearing; or
- (5) The hearing officer and/or the state board have misapplied applicable law.

(b) Any request for reconsideration shall specifically detail the grounds upon which the requesting party considers the order or decision to be unjust or unlawful and every issue to be considered on reconsideration. The requesting party shall be deemed to have fully waived all objections, irregularities, and illegalities concerning the proceeding upon which reconsideration is sought other than those specifically set forth in the request for reconsideration. The request for reconsideration will be denied if it contains no more than allegations of the statutory or constitutional grounds for reconsideration, unsupported by specific references to the record and principles of law involved.

(c) When a request for reconsideration or answer thereto has been timely filed, the filing of supplemental papers or answers may be granted at the discretion of the state board. Parties requesting a copy of the hearing record shall bear the cost of reproduction.

(d) The request for reconsideration may include a request that the order or decision of the state board be stayed pending resolution of the request for reconsideration. As provided in section 60055.41, the order or decision shall be automatically stayed for 20 days from the date of filing of the request for reconsideration.

(e) Within ten days of being served with notice of a request for reconsideration, a party opposed to the request may file an opposition to the request with the clerk of the state board. The opposition shall be signed and verified under oath by the party or its representative and shall not exceed six pages.

NOTE: Authority cited: Sections 39600 and 39601, Health and Safety Code. Reference: *Mathews v. Eldridge*, 424 U.S. 319 (1976); and Section 43105, Health and Safety Code.

REFERENCE